

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No.877 of 2013

Reserved on : 10.10.2018

Order pronounced on : 12.10.2018

Between:

B. Sattaiah, S/o. Mallaiah,
Aged about 45 years,
Working as Motor Lorry Driver,
O/o. Superintending Engineer,
Central Public Works Department,
Hyderabad Central Electrical Division,
Nirman Bhavan, Sultan Bazar, Hyderabad

... Applicant

And

1. Union of India, rep. by its
Director General of Works,
Central Public Works Department,
New Delhi.
2. The Additional Director General of Works,
Central Public Works Department,
Rajaji Bhavan, Basant Nagar, Chennai.
3. The Superintending Engineer (Coord) (DDG),
Southern Region, Central Public Works Department,
Rajaji Bhavan, Basant Nagar, Chennai.
4. The Chief Engineer, South Zone-II,
Central Public Works Department,
Nirman Bhavan, Sultan Bazar, Hyderabad.
5. The Superintending Engineer,
Hyderabad Central Circle – I,
Central Public Works Department,
Nirman Bhavan, Sultan Bazar, Hyderabad.
6. The Superintending Engineer (Electrical),
Hyderabad Central Electrical Circle,
Central Public Works Department,
Nirman Bhavan, Sultan Bazar, Hyderabad.

... Respondents

| | | |
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| Counsel for the Applicant | ... | Dr. A. Raghu Kumar |
| Counsel for the Respondents | ... | Mr. T. Hanumantha Reddy, Addl. CGSC |

CORAM:

Hon'ble Mr. B.V. Sudhakar ... *Member (Admn.)*
Hon'ble Mr. Swarup Kumar Mishra ... *Member (Judl.)*

ORDER

{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.)}

The OA is filed challenging the action of the respondents in not regularizing the services of the applicant considering his seniority and regularizing the services of his juniors with less number of working days.

2. Brief facts of the case are that the applicant joined the Department as Driver on casual basis on 23.05.1990. Later, he was granted temporary status Mazdoor. The applicant made several representations to the respondents requesting to engage him on work order basis. As there was no response OA No. 193/95 was filed before this Tribunal and this Tribunal ordered the respondents to consider and pass appropriate orders. As there were no orders passed by the respondents, the applicant moved this Tribunal once again on contempt and at that instant of time, the respondents intimated that the applicant shall be considered against future vacancies under direct recruitment quota. Besides, the 3rd respondent proposed conversion of the 9 promotional vacancies available for direct recruitment and also to regularise the services of casual labours/ drivers. As there was no response, the applicant along with others filed OA 1108/1999 in this Tribunal. The 1st respondent was directed to examine the suggestion made by the Superintending Engineer and the Chief Engineer. Consequently, the 1st respondent sanctioned 10 posts to Southern Region vide letter dt. 12.05.2006. Following the sanction, seniority list of eligible casual employees was published on 22.02.2007. However, this list did not contain the name of the applicant. Thereafter, another revised seniority list was published on 31.08.2007 wherein the applicants name was shown at Sl. No. 8. The

applicant filed an objection to the seniority list, but the respondents published one more seniority list on 30.11.2007 wherein the applicant was placed much below his originally assigned place in the seniority list published on 22.02.2007 and 31.08.2007. Being helpless, the applicant once again approached this Tribunal in OA 839/2007 for having shown him at Sl. No. 15 in the latest seniority list without considering the actual number of days for which he has worked as casual labour. The Hon'ble Tribunal vide order dt. 21.07.2010 quashed the seniority list dt. 30.11.2007 and directed the respondents to revise the seniority list based on the number of days for which the applicant has worked on casual basis either on hand receipt or on work order basis and thereafter, fill up the approved vacancies with persons as per the seniority in the revised list.

3. The contention of the applicant is that he has worked for 2439 days, but the respondents have shown his seniority as if he has worked for only 1562 days. Therefore, he was not regularized though persons who have worked for less number of days than him were regularized. Aggrieved, he has filed contempt petition No. 110/2012 in OA 839/07. The respondents replied stating that the order of the Tribunal is being implemented and that the applicant has been appointed in terms of the revised seniority list as per the directions of the Hon'ble Tribunal. The main grievance of the applicant is that though he has worked for total of 2439 days as per the records available at the instant of time which were duly certified by the competent authority, yet, the respondents have regularized the following persons, who have been shown at Sl. No. 17, 21, 32, 34, 35, 38 & 49 of the seniority list published by the respondents:

| Sl. No. | Name of the person | No. of days worked |
|---------|--------------------|--------------------|
| 1 | T. Rajasekhar | 2267 |
| 2 | P. Sekar | 2077 |
| 3 | N. Narsing Rao | 1370 |
| 4. | Muthyalu Moses | 1220 |
| 5. | Chinna Obayya | 1121 |
| 6. | Dasari Mohan | 799 |
| 7. | R. Ramesh | 153 |

When the applicant represented against the same, the respondents intimated that the persons at Sl. No. 2 & 3 who are seniors to the applicant and those at Sl. No. 4 & 8 were regularized as per seniority list dt. 30.11.2007. The respondents also intimated that they are taking action to rectify the position either to revert them or to create supernumerary post with the approval of the Directorate which will take 3 to 4 months time. Further, the applicant contends that the Superintendent Engineer vide letter dt. 1.5.2013 has accepted that the applicant has worked for 2439 days which itself proves that the respondents have ignored the case of the applicant while taking action in terms of the order of this Tribunal in OA 839/2007. The applicant alleges that the respondents are wilfully ignoring his claim though he is eligible for regularization and hence, this OA.

4. The respondents do confirm that the applicant did work on hand receipt and work order during different periods of time. As per the orders of this Tribunal in OA 839/2007, the final seniority list was prepared based on the number of days worked for on hand receipt and work order. The respondents contend that the applicant was not given any appointment as driver on casual basis in 1990. The respondents state that because of lack of sufficient sanctioned

posts and ban on recruitment, different categories of workers were engaged by various offices depending on urgency based on hand receipt, work order, muster roll and on contract basis. The applicant was one such worker engaged on hand receipt and work order basis. However, due to inadvertent error all the workers deployed as above were treated as casual workers and a seniority list was prepared in 2007. They admit that such a seniority list is meant only for regular government servants and that it is a misnomer to prepare a seniority list for those who work on casual basis. However, based on the order of this Tribunal a seniority list was prepared on 30.11.2007 wherein P. Sekar was shown at Sl. No. 21, T. Rajasekhar shown at Sl. No. 17. The respondents also submit that the applicant in the present OA is shown at Sl. No. 28 in the revised seniority list and by considering the claim of the applicant that he has worked for 2439 days his seniority will improve to Sl. No.16 below Sri V. Ambalavanan and not getting covered in the consideration zone for regularization in the 10 posts that were sanctioned.

5. Heard learned counsel and perused the documents on record.

6. Facts of the case are that this Tribunal has examined the case of the applicant in a couple of OAs referred supra and directed the respondents to prepare final seniority list based on the number of days for which he has worked on work order or hand receipt basis. As admitted by the respondents, the applicant has worked for 2439 days and that he will now figure at Sl. No. 16 in the revised seniority list as stated in para 11 (e) of the reply statement. The respondents have also admitted that they are regularizing the casual labours based on the seniority list as and when vacancies occur. The respondents admit on record that the candidates Sri P. Sekhar, at Sl. 21 and Sri T. Rajasekhar at Sl. 17 who are below

the applicant in the seniority list have already been regularized. A case has been made out wherein the juniors to the applicant have been regularized, ignoring his claim, which is not fair. Seniority principle need necessarily be followed as has been agreed to by the respondents. Therefore, since the applicant is placed at Sl. No. 16 in the seniority list, his contention that he has to be regularized is lawful, appropriate and has to be considered. Therefore, the respondents are directed to consider the case of the applicant for regularization on par with juniors based on facts stated above within a period of three months from the date of receipt of this order.

7. In the result, the OA is allowed to the said extent. No order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER (JUDL.)

(B.V. SUDHAKAR)
MEMBER (ADMN.)

Dated, the 12th day of October, 2018

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